

**OPINION
65-19**

February 10, 1965 (OPINION)

The Honorable William L. Guy

Governor

RE: Bank of North Dakota - Industrial Commission - Appointment of Re

This is in reply to your letter of February 5, 1965, in which you request our opinion on the following matter:

"Subject to such refinements as may be necessary, do you think the Industrial Commission can designate a special representative, on a special assignment basis, as a representative of the Bank of North Dakota charged with implementing the efforts of the Economic Development Commission, the Bank of North Dakota, and/or local or regional groups who are interested in the common goal of expanding the industrial economy of North Dakota."

Section 6-09-01 of the North Dakota Century Code provides:

"PURPOSE AND ESTABLISHMENT OF BANK OF NORTH DAKOTA. For the purpose of encouraging and promoting agriculture, commerce, and industry, the state of North Dakota shall engage in the business of banking, and for that purpose shall maintain a system of banking owned, controlled, and operated by it, under the name of the Bank of North Dakota."

Section 6-09-01 of the North Dakota Century Code provides:

"INDUSTRIAL COMMISSION TO OPERATE BANK - BUSINESS OF BANK. The Industrial Commission shall operate, manage, and control the bank of North Dakota, locate and maintain its places of business, of which the principal place shall be within the state, and make and enforce orders, rules, regulations, and bylaws for the transaction of its business. The business of the bank, in addition to other matters specified in this chapter, may include anything that any bank lawfully may do, except as it is restricted by the provisions of this chapter. This provision shall not be held in any way to limit or qualify either the powers of the Industrial Commission granted by nor the functions of said bank as defined in this chapter."

Section 6-09-04 of the North Dakota Century Code provides in part:

"COMMISSION TO EMPLOY MANAGER AND OTHER EMPLOYEES - EXPENDITURES LIMITED TO APPROPRIATIONS. The Industrial Commission shall obtain such assistance as in its judgment may be necessary for the establishment, maintenance, and operation of the bank. * * * It shall employ such contractors, architects, builders, attorneys, cashiers, tellers, clerks, accountants, and other experts, agents, and servants as in the judgment of the commission the interests of the state may

require, and shall define the duties, designate the titles, and fix the compensation, within legislative appropriation, and the bonds of all such persons so engaged. * * *"

The above cited statutes give the Bank of North Dakota and the Industrial Commission broad powers. Section 6-09-01 specifically states the purpose of the bank is to encourage and promote agriculture, commerce and industry. The purpose of the Economic Development Commission is similar. (See Chapter 54-34 of the North Dakota Century Code). Assuming the purposes of the local or regional groups are similar, i.e., expanding the industrial economy of North Dakota, it is our belief that the Industrial Commission may designate a special representative, on a special assignment basis, as a representative of the Bank of North Dakota, charged with implementing the efforts of these various groups. While such activities may not be directly concerned with the technical aspects of banking as that term is ordinarily used, the functions of the Bank of North Dakota are more comprehensive than merely carrying out the ordinary technical aspects of banking, and such activities appear to be at least directly connected with the general purposes of the Bank of North Dakota.

Any representative appointed by the Industrial Commission would not, of course, have the power to regulate or control the functions of the Economic Development Commission or similar local or regional groups since these bodies have powers of their own, granted by statute, which cannot be usurped by the representative of the bank.

Since, as you have noted in your letter, there may be necessary limitations upon such representative of the bank ("Subject to such refinements as may be necessary"), this opinion must, of necessity, be general in nature. Any question as to a specific activity of such representative would depend upon the specific activity involved.

It is, however, our opinion that the Industrial Commission may designate a special representative of the Bank of North Dakota, within the limits of legislative appropriations, for the purpose of cooperating, coordinating and advising the various other agencies and, with their permission, implementing their efforts within the statutory provisions of our laws.

HELGI JOHANNESON

Attorney General